

Audit Rec #	Recommendation	Implementation <small>(note department's intention to implement the recommendation by an "A" for Recommendation Accepted or an "R" for Recommendation Rejected)</small>	Target Imp. Date	Department Comments <small>(including reason(s) for: rejecting recommendation; failure to implement or implementation dates in excess of 90 days from due date of CAP)</small>
1	The department should:			
a.	formulate, document and implement administrative controls necessary to contain 207-c costs effectively. Operating goals should be established and performance should be periodically measured against these goals to determine the need for corrective actions. Such a program should also enable the department to generate monthly statistical reports, as well as to compile comprehensive historical information pertaining to both long-term and sporadic 207-c claimants. This would enable the department to improve the tracking and monitoring of all cases. Management should review reports generated by this system in a timely manner to determine what policies or procedures might need to be changed or if additional resources should be dedicated.			The Department has already implemented these steps as part of the 207-c Management Program, which commenced in February 2004, to supplement the reporting and monitoring of 207-c cases the Department performed during the audit period. An updated automated time and leave system would correct global time and leave deficiencies, as well as a number of items noted herein. The current County program is outdated and does not allow for "real-time" entries, nor does it allow Department staff to readily generate historical reports. As we previously informed the Comptroller's Office, the Sheriff's Department has requested to be designated for beta testing of an upgraded computerized human resources system and has received assurances from County Human Resources that it will be so designated.
b.	document all approvals and denials of 207-c benefits. The signature of the official authorizing these benefits should be affixed to the document(s) providing the basis for such decisions.			Approvals and denials of 207-c benefits are documented. With the exception of three instances that occurred from 2000 to 2001, there have been no instances of undocumented 207-c decisions.
c.	consider IME results in determining whether to continue an officer's 207-c benefits and whether to require the officer to return to work. The length and number of long-term absences could also be reduced if the department required timely medical exams to determine whether an officer is able to return to work.			Under the 207-c Management Program, "imes" are conducted when required by the independent medical consulting service ("imcs") referenced in the ShOA/Nassau County collective bargaining agreement pertaining to 207-c benefits (hereinafter "VO5"). Determinations by the imcs are binding. IMEs conducted as a result of worker's compensation claims are not binding on the employee, who may dispute the examination results and proceed to dispute resolution pursuant to the VO5. The Department cannot require an employee to return to work prior to the resolution of the dispute. However, reports generated as a result of those IMEs are submitted to the Police Surgeons and the imcs for consideration when examining Department employees.
d.	consider ways of seeking the public's assistance in identifying possible fraud and abuse of 207-c and worker's compensation benefits.			The Department's Medical Investigations Unit (MIU) is well-equipped to uncover fraud and abuse, as evidenced by the number of cases referred to the Nassau County District Attorney's Office for possible prosecution, and the number of instances in which discipline was imposed on employees by both MIU and the Sheriff's Bureau of Investigation (SBI).
2. a.	The department, in conjunction with the WCB, should establish specific guidelines for IMEs. IMEs should be regularly scheduled so that all appropriate defenses can be raised and all issues litigated. This would allow the department to stop benefits if no disability is found. Additionally, authorizations for medical treatments may be withdrawn, or treatment levels reduced, if such treatments are deemed medically unnecessary, or if maximum medical improvement has been reached.			The IMEs referenced here are those performed in relation to Worker's Compensation claims. The Department does not have the authority to schedule such examinations, nor does it have the requisite medical expertise to determine the types of examinations its employees should undergo. The Department forwards all necessary paperwork to the Worker's Compensation Unit and, now, the County's third-party administrator of such claims, to enable them to schedule employees for appropriate examinations. It must be noted that the results of such examinations are not binding on the employee and 207-c benefits cannot be revoked based on such examinations alone.
b.	The department should be more proactive in requesting that IMEs be performed on a timely basis. As stated in procedure VII of the Sheriff's policy number CD 03-01-10, effective January 1, 1991, "The Attendance Control Officer may confer with the County physician and/or the County Attorney's Office as to the condition of the Correction Officer's injury, and if said injury warrants further evaluation by a physician." In instances in which medical reports do not support alleged injuries or further medical treatment, the department could initiate steps to require a claimant to return to work. Additionally, IME results could be useful in determining whether to file for disability retirement on behalf of the officer.			The IMEs referenced here are within the jurisdiction of the County Attorney's Office and not the Sheriff's Department. Such IMEs are requested and/or authorized by that Office and the County's third-party administrator. Again, the results of these IMEs are not determinative of 207-c issues. The Department has been receiving copies of these IMEs and has been providing both the Police Surgeons and the imcs with those reports, for consideration during their examinations of employees.
c.	The 1991 policy was revised effective February 17, 2004. Procedure II. J. now reads "Human Resources or Attendance Control may confer with the designated physician and/or the Department's assigned General Counsel or Legal Unit as to the condition of the Correction Officer's Injury, and if said injury warrants further evaluation by another physician." This procedure should be further amended to also direct the Human Resources or Attendance Control personnel to confer with the County Attorney's Office, since that office is instrumental in setting up IMEs.			This recommendation assumes that the County Attorney's Office is instrumental in scheduling IMEs for purposes other than Worker's Compensation claims; that is incorrect. The policy referred to herein addresses medical examinations performed by the Sheriff's Designated physician and the imcs pursuant to the VO5 only. This policy is not intended to, nor should it, provide guidelines for the litigation and resolution of Worker's Compensation claims.
d.	The department should work with the WCB to develop a software control system that records the types of medical tests performed, "no-shows" and reasons thereto, and receipt dates of IME reports. The Bureau should be provided with the ability to scan tests results and examination reports, in order to expedite the transmittal of information to the department.			The County's third-party administrator is now transmitting examination and hearing reports to the Department on a regular basis.
3. a.	The department should conduct those home visits and surveillances which are necessary to provide adequate monitoring of 207-c claimants. Investigators should also be authorized to conduct surveillance on the weekend and after 8 p.m. Without effective monitoring to determine claimants' entitlements to benefits and their compliance with departmental requirements, abusers and fraudulent claims may remain undetected.			The Department's MIU does conduct home visits on a regular basis and performs surveillance when warranted. The monitoring conducted by MIU is very effective, as evidenced by the number of successful investigations they have conducted, including those prosecuted by the Nassau County District Attorney's Office, and as evidenced by the compliance of most employees with the Department's rules and policies concerning 207-c leave.
b.	The department should devote more resources to investigations to minimize days lost and to reduce costs. In conjunction with hiring additional investigators, clerical staff should be hired to enable the investigators to spend more time performing their investigative duties.			The Department is in the process of hiring civilians, some of whom will be considered for assignment to the investigative units.
c.	Written policies and procedures should be established by the department to require:	A - written S.O.P. for MIU	1-Sep-05	The Department agrees that the standard operating procedures for MIU should be memorialized in writing. It should be noted, however, that standards for the reporting of investigations already exist, as do forms relating to investigations and personnel actions.
	- a procedural outline/description of the types of investigations required;			
	- minimum standards as to how often each type of investigation is to be conducted or which type should be utilized to produce the maximum benefit;			The Department refers the Comptroller's Office to the three-page memorandum from the Department's counsel to the Comptroller's Office, dated 1/26/05, which explains the difference between "tracking and monitoring" of employees on 207-c leave, and "investigations". The memo details the basis upon which investigations are conducted on employees utilizing 207-c leave.
	- minimum standards relating to the reporting of investigations, i.e., forms to be used and the documentation required to substantiate observations and determinations. These standards should also address the type of documentation to be included if legal or personnel actions need to be initiated; and			

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	· that investigators maintain logs detailing time spent on investigations and taking claimants to police surgeon appointments.			MIU has always maintained documentation reflecting the activities of the various investigators. Scheduling and accompanying of employees to police surgeon appointments will no longer be the responsibility of MIU. That responsibility is being reassigned to Human Resources/Attendance Control.
d.	Management should document the nature and frequency of investigations, and analyze the sufficiency of the data accumulated.			Investigations are opened when there is a sufficient basis for doing so. All investigations are documented. The Department refers the Comptroller's Office to the memo dated 1/26/04 referenced above.
e.	Investigators should receive extra training. Topics should include "red flag" awareness (potential risk factors); requirements for denying a case; and what constitutes sufficient medical documentation. (NY State's investigative unit uses New York City Transit [MTA] Law Department's "Workers' Compensation No-Fault Division Claims Examiner Manual" to assist it in reviewing claims).			While the Department appreciates these recommendations, the standards for granting benefits on Worker's Comp claims and those applicable to 207-c are different and, thus, training pertaining to Worker's Comp claims would not be beneficial to MIU. Additionally, the MIU staff is not responsible for determining whether or not 207-c benefits should be granted; that is currently the function of the commanding officer of SBI who is fully versed in G.M.L. 207-c and is provided with guidance from two attorneys on a regular basis. The Department's policy #03-01-10 delineates what must be contained in medical documentation.
4.a.	The department's revised policy CD 02-05-11 and the Interdepartmental Service Agreement with the Police Department, requires that members of the department on restricted duty be examined every 30 days, or as determined by MIU. Regular police surgeon's examinations should be scheduled in accordance with the revised policy and the PD agreement to enable timely return-to-work determinations.			The Department agrees with this recommendation. Employees are scheduled for examination by the police surgeons in accordance with the surgeons' instructions and schedules.
b.	Procedure #5 of this policy states, "The designated physicians shall maintain records, prepare reports of examination, and testify at administrative hearings." However, this procedure does not specify the level of detail to be provided, nor does it offer any minimum standards of documentation. This should be put into writing by the department to ensure that sufficient medical documentation is established should a dispute arise regarding the continuation of 207-c benefits or a fitness-for-duty determination.			A number of provisions in the referenced policy do in fact describe the information required in the medical reports. Additionally, the forms that the Police Surgeons are required to fill out were created by the Department and specify additional details that must be provided by the surgeons.
c.	The original and revised "Sheriff's Department Surgeons" policies both state, "It is understood that no doctor-patient relationship exists, or is implied by the surgeons' medical examinations." The department should ensure that it complies with this policy to avoid possible conflicts of interest concerning medical determinations.			The Department agrees and is in compliance with this provision.
5	The department should:			
a.	re-evaluate the practice of granting up to four hours for all medical treatment received. The allotted time should be based, as originally intended, on the type of treatment obtained, and reasonableness should be determined on a case-by-case basis. The department should formalize this in a written policy.			This has been reviewed by the County Attorney's Office and the Office of Labor Relations. The Department has been advised to continue the practice.
b.	not allow claimants on the disabled list to exceed the maximum number of hours allowed for medical treatments without sufficient justification. Any additional time taken should be charged to leave entitlements.			The Department is in full agreement and does not allow employees to exceed the maximum number of hours authorized for treatment or medical appointments.
c.	consider developing and implementing a form similar to the one used by the Suffolk County Sheriff's Department in verifying its employees' receipt of medical treatment during work hours.			The Department promulgated a policy on July 28, 2004 which requires all employees to provide notice, from the medical provider, of a medical appointment for a work-related injury at least 72 hours prior to the visit. Additionally, all employees must also submit medical certification to Attendance Control upon return to duty.
6	To ensure that officers comply with departmental orders to appear for medical examinations and to receive medical treatment,			
a.	records should be maintained that document the reason a medical examination was missed;			The Department agrees with this recommendation. All missed examinations are documented in the MIU files and/or staff medical files. Additionally, and when warranted, staff is required to submit documentation concerning the missed examination to MIU.
b.	the department should utilize the remedies available to them and deny salary and medical payments to those claimants who refuse medical treatment and/or examinations; and			The Department agrees and does, in fact, deny 207-c benefits to staff under those circumstances which such benefits can be denied pursuant to law and/or the collective bargaining agreement.
c.	prompt rescheduling of the missed exams should be required and performed.			The Department does promptly reschedule missed exams with the Police Surgeons and the imcs. However, missed examinations that are scheduled in relation to disability retirement applications must be scheduled through the NYSERS.
7	The department should:			
a.	confer with the county attorney as to whether injured CSEA employees are entitled to receive the equivalent of 207-c benefits pursuant to the terms of the contract and document all decisions;			CSEA employees are entitled to receive the equivalent of 207-c benefits, under certain circumstances, pursuant to section 39-5.1of the CSEA collective bargaining agreement.
b.	enforce the Police Surgeons' determinations and order claimants back to work in either a full or light-duty capacity. Failure to do so may diminish the credibility of the surgeons' professional opinions and hinder the department's ability to return claimants to work in a timely manner.			The Department does enforce the Police Surgeons determinations. However, the employee has a right - pursuant to the VO5 - to dispute those determinations. Staff cannot be disciplined for failing to comply with the surgeon's determinations if they elect dispute resolution pursuant to the VO5, nor can their 207-c benefits be revoked prior to resolution of the dispute.
8	The Sheriff's department should employ someone in a similar capacity. This would facilitate the scheduling of independent medical exams, which are critical to determine whether and what type of medical treatment should be provided, as well as fitness to return to duty. Employing such an individual would expedite these determinations by ensuring prompt delivery of the consultants' medical reports of these exams to the Correctional Center. In addition, this individual could assist in managing workers' compensation costs by reviewing medical claims to ascertain whether the services provided were necessary and appropriate.			This recommendation is outdated inasmuch as the County has contracted with a third-party administrator to manage the County's workers compensation program. Determinations concerning examinations are made expeditiously and examinations are timely scheduled. Additionally, the Department and TRIAD regularly communicate, and relevant reports are forwarded to the Department by TRIAD.
8. Follow-up Rec.	The department should consult with the Police Department to determine if the need for a liaison would change as a result of hiring a third party administrator.			Please see the response to #8 above. This recommendation is outdated.
9	Record Keeping:			
I. a.	The process used to establish the 30-day disabled list and record calls from the voicemail system is time-consuming. The department should computerize attendance records to facilitate the recording and accumulating of time and leave data.			The Department agrees that a state-of-the-art, real-time computerized time and leave system would address certain global time and leave deficiencies, and enable the Department to generate more readily employee attendance reports.
I. b.	The return times after seeking medical treatment should be called in as required by departmental policy and procedures. Penalties for noncompliance should be incorporated into this policy.			The Department agrees; this has always been the policy. The Department has in the past disciplined employees for violating this and other related rules and policies, and continues to do so.
II. a.	Leave taken should be entered into NUHRS promptly to enable timely filings of reimbursement requests. This would ensure that the county is reimbursed for the workers' compensation benefit to which the claimant is entitled and that the claimant's leave balance is properly restored.			The Department concurs with the Comptroller that NUHRS entries should be made contemporaneously when possible; that is and always has been the Department's practice.

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II. b.	The recording of 207-c leave time and the provision of doctors' notes into this log is duplicative and inefficient. This process should be discontinued. The information should be obtained directly from NUHRS' printouts and from MIU's computer system.			Until such time as the Department has a state-of-the-art real-time computerized time and leave system, these recording practices will remain in place.
10	As the State Comptroller implicitly found, providing an equipment allowance to employees who are out on 207-c leave for all or most of a year does not make sense. The county attorney should review the collective bargaining agreement, along with the labor relations director, to determine whether the department must provide this benefit to employees receiving 207-c benefits.			The Department is awaiting an opinion on this matter from both the County Attorney's Office and the Office of Labor Relations.
11. a.	Physician's notes should cover only a 30-day period of disability subsequent to the related medical examination. To ensure that the notes do not exceed the 30-day requirement, claimants should arrange for follow-up appointments at the completion of their current medical examinations.	Revise applicable Department policies	1-Sep-05	The Department agrees that medical notes must be updated at routine intervals. The related Department policy will be changed to reflect the possibility that the treating or examining physician may require re-examination at an interval greater than four weeks.
b.	Policy requirements should be strictly enforced and claimants' accumulated sick leave should be charged for failure to provide proper medical documentation.			The Department agrees. Staff is disciplined when warranted, and when permitted under the applicable laws and collective bargaining agreements, for failure to provide proper medical documentation. Additionally, the Department has sought an opinion from OLR as to whether staff can be charged their own sick leave for failure to provide proper documentation.